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Ryan Ramsey

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Ryan Ramsey	Case Number:
Plaintiff,	Complaint For Damages
v.	Jury Trial Demanded
Law Office of Curtis O Barnes, PC	
Defendant.	

INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt

1 collection practices are not competitively disadvantaged, and to promote
2 consistent State action to protect consumers against debt collection abuses.

3 2. Ryan Ramsey, (Plaintiff), through Plaintiff's attorneys, brings this action to
4 challenge the actions of Law Office of Curtis O Barnes, PC, ("Defendant"),
5 with regard to attempts by Defendant to unlawfully and abusively collect a
6 debt allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.

7 3. Plaintiff makes these allegations on information and belief, with the exception
8 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which
9 Plaintiff alleges on personal knowledge.

10 4. Unless otherwise stated, Plaintiff alleges that any violations by Defendant
11 were knowing and intentional, and that Defendant did not maintain
12 procedures reasonably adapted to avoid any such violation.

13 JURISDICTION AND VENUE

14 5. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. §
15 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.

16 6. This action arises out of Defendant's violations of the Fair Debt Collection
17 Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA")

18 7. Because Defendant does business within the State of Arizona, personal
19 jurisdiction is established.

20 8. Venue is proper pursuant to 28 U.S.C. § 1391.

21 PARTIES

22 9. Plaintiff is a natural person who resides in the City of Queen Creek, County
23 of Pinal, State of Arizona.

24 10. Defendant is located in the City of Anaheim, the County of Orange, and the
25 State of California.

26 11. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer"
27 as that term is defined by 15 U.S.C. § 1692a(3).
28

12. Defendant is a person who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is therefore a debt collector as that phrase is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

13. At all times relevant to this matter, Plaintiff was an individual residing within the State of Arizona.

14. At all times relevant, Defendant conducted business within the State of Arizona.

15. Sometime before May 26, 2009, Plaintiff is alleged to have incurred certain financial obligations.

16. These financial obligations were primarily for personal, family or household purposes and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

17. Sometime thereafter, but before May 26, 2009, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt. Plaintiff currently takes no position as to the validity of this alleged debt.

18. Subsequently, but before May 26, 2009, the alleged debt was assigned, placed, or otherwise transferred, to Defendant for collection.

19. On or about May 26, 2009, Defendant telephoned Plaintiff and demanded payment of the alleged debt.

20. This communication to Plaintiff was a “communication” as that term is defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent with 15 U.S.C. § 1692g(a).

21. Within five days after the initial communication, Defendant failed to send the required notices under 15 U.S.C. § 1692g et seq.

22. On or about June 3, 2009, Plaintiff telephoned Defendant to inquire about the alleged debt.
23. During this conversation, Defendant's agent, a woman, threatened to garnish Plaintiff's wages. She also threatened to "contact [Plaintiff's] employer without notice to deliver paperwork to allow deductions to pay on the debt owed."
24. These statements were a false, deceptive, or misleading representation or means in connection with the collection of the alleged debt. As such, this action by Defendant violated 15 U.S.C. §§ 1692e and 1692e(10).
25. These statements represented the threat to take action that Defendant could not legally take or that Defendant did not intend to take, and violated 15 U.S.C. § 1692e(5).
26. Through this conduct, Defendant used an unfair or unconscionable means to collect or attempt to collect any debt. Consequently, Defendant violated 15 U.S.C. § 1692f.
27. Through this conduct, Defendant made a false representation concerning the character, amount, or legal status of a debt. Consequently, Defendant violated 15 U.S.C. § 1692e(2)(A).
28. Due to Defendant's threats, Plaintiff became very concerned and wanted to pay the alleged debt to stop Defendant from following through with their threats. However, Defendant demanded an amount that Plaintiff could not pay.
29. Plaintiff then tried to explain his financial situation to Defendant, but Defendant's agent, cut him off, and yelled over him, "So you're refusing to settle! That's fine! We'll collect our money and take it out of your paycheck!" She then hung up on Plaintiff.

- 1 30. These statements were a false, deceptive, or misleading representation or
2 means in connection with the collection of the alleged debt. As such, this
3 action by Defendant violated 15 U.S.C. §§ 1692e and 1692e(10).
- 4 31. These statements represented the threat to take action that Defendant could
5 not legally take or that Defendant did not intend to take, and violated 15
6 U.S.C. § 1692e(5).
- 7 32. Through this conduct, Defendant used an unfair or unconscionable means to
8 collect or attempt to collect any debt. Consequently, Defendant violated 15
9 U.S.C. § 1692f.
- 10 33. Through this conduct, Defendant made a false representation concerning the
11 character, amount, or legal status of a debt. Consequently, Defendant violated
12 15 U.S.C. § 1692e(2)(A).
- 13 34. On or about June 5, 2009, Plaintiff received another call from Defendant at
14 his place of employment.
- 15 35. At the beginning of this conversation, Plaintiff requested to call Defendant
16 back using a different telephone line.
- 17 36. During this conversation with Defendant, Plaintiff advised Defendant that
18 Plaintiff's employer prohibited Plaintiff from receiving such communications
19 at Plaintiff's place of employment in a manner consistent with 15 U.S.C.
20 §1692c(a)(3), and also advised Defendant that calls at Plaintiff's place of
21 employment was inconvenient, as prescribed in 15 U.S.C. §1692c(a)(1).
- 22 37. Defendant's response to Plaintiff was "What is the number to the Human
23 Resources department." When Plaintiff did not immediately give it to her, she
24 responded, "I have other ways in getting the number if you are not going to
25 give it." Defendant then hung up on Plaintiff.
- 26 38. Immediately after abruptly terminating the call with Plaintiff, Defendant again
27 called Plaintiff's place of employment.
28

- 1 39. Because Defendant knew or had reason to know that the Plaintiff's employer
2 prohibits Plaintiff from receiving such communications and that such calls
3 were inconvenient, this action by Defendant violated 15 U.S.C. § 1692c(a)(1)
4 and 15 U.S.C. § 1692c(a)(3).
- 5 40. Defendant then left a message with Plaintiff's supervisor, a third party, as that
6 phrase is anticipated by 15 U.S.C. §1692c(b), This communication to a third
7 party was without prior consent, or the express permission of a court of
8 competent jurisdiction, or as reasonably necessary to effectuate a post
9 judgment judicial remedy, and was in connection with the collection of the
10 alleged debt, and with a person other than Plaintiff, Plaintiff's attorney, a
11 consumer reporting agency, the creditor, the attorney of the creditor, or the
12 attorney of the debt collector. This communication to this third party was not
13 provided for in 15 U.S.C. § 1692b. By making said communication to a third
14 party, Defendant violated 15 U.S.C. § 1692c(b).
- 15 41. On or about June 5, 2009, Plaintiff called back Defendant and again requested
16 that Defendant stop calling his place of employment and to stop making
17 threats to him regarding the alleged debt.
- 18 42. On or about June 8, 2009, Plaintiff's supervisor called him into his office to
19 discuss the message left by Defendant. Plaintiff's supervisor was concerned
20 why a law office was attempting to talk to him.
- 21 43. In order to protect Plaintiff's credibility, Plaintiff was forced to disclose
22 details from his personal private life. Plaintiff was greatly embarrassed and
23 humiliated by this.
- 24 44. On or about June 9, 2009, Defendant's agent, Ms. Byars, again called
25 Plaintiff. Defendant again began making threats of garnishing Plaintiff's
26 wages.
- 27
28

45. These statements were a false, deceptive, or misleading representation or means in connection with the collection of the alleged debt. As such, this action by Defendant violated 15 U.S.C. §§ 1692e and 1692e(10).

46. These statements represented the threat to take action that Defendant could not legally take or that Defendant did not intend to take, and violated 15 U.S.C. § 1692e(5).

47. Through this conduct, Defendant used an unfair or unconscionable means to collect or attempt to collect any debt. Consequently, Defendant violated 15 U.S.C. § 1692f.

48. Through this conduct, Defendant made a false representation concerning the character, amount, or legal status of a debt. Consequently, Defendant violated 15 U.S.C. § 1692e(2)(A).

49. During this same conversation, Plaintiff again requested Defendant stop calling his place of employment.

50. In response to Plaintiff's request, Defendant stated she "can call anytime [she] wants and [she] will just say [they] are verifying employment.

51. These statements were a false, deceptive, or misleading representation or means in connection with the collection of the alleged debt. As such, this action by Defendant violated 15 U.S.C. §§ 1692e and 1692e(10).

52. These statements represented the threat to take action that Defendant could not legally take or that Defendant did not intend to take, and violated 15 U.S.C. § 1692e(5).

53. Through this conduct, Defendant used an unfair or unconscionable means to collect or attempt to collect any debt. Consequently, Defendant violated 15 U.S.C. § 1692f.

54. Through this conduct, Defendant made a false representation concerning the character, amount, or legal status of a debt. Consequently, Defendant violated 15 U.S.C. § 1692e(2)(A).

1 55. During this conversation, Plaintiff then told Defendant that he and his wife
2 were contemplating bankruptcy due to this alleged debt, other, and in an
3 attempt to save their home.

4 56. Defendant then responded, "Even if you file bankruptcy you will still be
5 responsible for the amount owed" She went on to say, "most companies are
6 months behind with filing paperwork and it could be 3 months before they get
7 to it because of all the filings. Trust me, I see this everyday, and your
8 paperwork will just sit on top of others. Our attorneys are not that backed up
9 and if we know you are trying to file BK, we will rush the judgment through,
10 and by the time your case worker gets to your file our judgment will already
11 be completed."

12 57. These statements were a false, deceptive, or misleading representation or
13 means in connection with the collection of the alleged debt. As such, this
14 action by Defendant violated 15 U.S.C. §§ 1692e and 1692e(10).

15 58. These statements represented the threat to take action that Defendant could
16 not legally take or that Defendant did not intend to take, and violated 15
17 U.S.C. § 1692e(5).

18 59. Through this conduct, Defendant used an unfair or unconscionable means to
19 collect or attempt to collect any debt. Consequently, Defendant violated 15
20 U.S.C. § 1692f.

21 60. Through this conduct, Defendant made a false representation concerning the
22 character, amount, or legal status of a debt. Consequently, Defendant violated
23 15 U.S.C. § 1692e(2)(A).

24 61. Due to Defendant's actions, Plaintiff suffered a great deal of emotional
25 distress and mental anguish including but not limited to the following
26 symptoms: embarrassment, humiliation, stress, anxiety, restlessness, and
27 irritability, which all impacted his job.

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CAUSES OF ACTION

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. §§ 1692 ET SEQ.

62. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

63. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

64. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

COUNT I

FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. §§ 1692 ET SEQ.

65. An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);

66. An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

67. An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3).

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TRIAL BY JURY

68. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Date: June 18, 2009

Hyde & Swigart

By: /s/David J. McGlothlin
David J. McGlothlin
Attorneys for the Plaintiff

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